

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of TracFone Wireless, Incorporated for
Designation as an Eligible Telecommunications
Carrier in The State of South Carolina for the
Limited Purpose of Offering Lifeline and Link Up
Service to Qualified Households

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 144 - C

(Please type or print)

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DOCKETING INFORMATION (Check all that apply)

- ☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other:

| INDUSTRY (Check one) | NATURE OF ACTION (Check all that apply) | | | |
|--|--|--|--|--|
| <input type="checkbox"/> Electric | <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request | |
| <input type="checkbox"/> Electric/Gas | <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification | |
| <input type="checkbox"/> Electric/Telecommunications | <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation | |
| <input type="checkbox"/> Electric/Water | <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement | |
| <input type="checkbox"/> Electric/Water/Telecom. | <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment | |
| <input type="checkbox"/> Electric/Water/Sewer | <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter | |
| <input type="checkbox"/> Gas | <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response | |
| <input type="checkbox"/> Railroad | <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery | |
| <input type="checkbox"/> Sewer | <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition | |
| <input checked="" type="checkbox"/> Telecommunications | <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation | |
| <input type="checkbox"/> Transportation | <input type="checkbox"/> Discovery | <input checked="" type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena | |
| <input type="checkbox"/> Water | <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff | |
| <input type="checkbox"/> Water/Sewer | <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input type="checkbox"/> Other: | |
| <input type="checkbox"/> Administrative Matter | <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | | |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | | |
| | <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | | |

**BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

DOCKET NO. 2009-144-C

| | | |
|---|---|------------------------------|
| In the Matter of |) | |
| |) | |
| Application of TracFone |) | |
| Wireless, Inc. For Designation |) | REBUTTAL TESTIMONY OF |
| as an Eligible Telecommunications |) | |
| Carrier in the State of South Carolina |) | F.J. POLLAK |
| for the Limited Purpose of Offering |) | |
| Lifeline Service to Qualified Households |) | |

1 those conditions required TracFone to obtain a certification from each PSAP where
2 TracFone provides Lifeline service confirming that TracFone provides its Lifeline
3 customers with access to 911 and E911 service without regard to activation status or
4 availability of prepaid minutes.

5 **Q: HAS THE PSAP CERTIFICATION REQUIREMENT BEEN MODIFIED SINCE**
6 **THE FCC'S 2005 ORDER?**

7 A: Yes. On March 5, 2009, the FCC issued an Order modifying the PSAP certification
8 requirement. The FCC modified the PSAP certification condition to require the
9 following: TracFone must still request such certification from each PSAP within its
10 Lifeline service area; however, if within 90 days of TracFone's request, a PSAP has not
11 provided the certification and the PSAP has not made an affirmative finding that
12 TracFone does not provide its customers with access to 911 and E911 service within the
13 PSAP's service area, TracFone may self-certify that it meets the 911 and E911
14 requirement. TracFone intends to provide Lifeline service in South Carolina in
15 conformance with the FCC's PSAP certification condition, as modified by the FCC's
16 March 5, 2009 Order.

17 **Q: WHAT IS THE STATUS OF TRACFONE'S EFFORTS TO OBTAIN PSAP**
18 **CERTIFICATIONS IN SOUTH CAROLINA?**

19 A: TracFone has been in contact with the South Carolina Budget and Control Board to
20 obtain a list of all PSAPs in South Carolina so that it may seek the required certifications.
21 TracFone understands that PSAP certifications may be issued on a county-wide basis.

1 **Q: IS TRACFONE WILING TO PROVIDE COPIES OF ANY PSAP**
2 **CERTIFICATIONS IT OBTAINS TO THE OFFICE OF REGULATORY STAFF?**

3 A: Yes. TracFone will provide all PSAP certifications to ORS. In addition, as I previously
4 explained, if within 90 days of TracFone's request to a PSAP for certification, the PSAP
5 has not provided the certification and the PSAP has not made an affirmative finding that
6 TracFone does not provide its customers with access to 911 and E911 service within the
7 PSAP's service area, TracFone may self-certify that it meets the 911 and E911
8 requirement in accordance with the provisions of the FCC's March 5, 2009 order. If
9 TracFone self-certifies that it meets 911 and E911 requirement in any PSAP service
10 areas, TracFone will provide copies of those self-certifications to ORS.

11 **Q: IS TRACFONE REQUIRED TO CONTRIBUTE TO THE SOUTH CAROLINA**
12 **UNIVERSAL SERVICE FUND?**

13 A: I understand that under South Carolina law, generally only wireline service providers are
14 required to contribute to the South Carolina USF. However, the South Carolina
15 Legislature gave the Commission authority to require other companies that provide
16 telecommunications services to contribute to the South Carolina USF if the Commission
17 determines after notice and opportunity for hearing that the company provides private
18 local exchange services or radio-based local exchange services that compete with a local
19 telecommunications service in South Carolina. TracFone, a commercial mobile radio
20 service provider, does not provide either private local exchange services or radio-based
21 local exchange services. Therefore, TracFone would not be required to contribute to the
22 South Carolina USF, even if designated as a Lifeline-only ETC. A more detailed

1 explanation of the legal basis for that conclusion is provided in a Legal Memorandum
2 provided in support of my testimony and attached as Exhibit 1.

3 **Q: SHOULD TRACFONE'S DESIGNATION AS AN ETC IN SOUTH CAROLINA**
4 **BE CONDITIONED ON ANY REGULATORY REQUIREMENTS?**

5 A: ORS contends in its testimony that the Commission should require TracFone to comply
6 with certain conditions including South Carolina's filing requirements. Such
7 requirements are wholly irrelevant to a carrier's status as a designated ETC. Section
8 214(e)(2) of the Communications Act lists all of the requirements which an ETC must
9 meet in order to be designated as an ETC and as described in my direct testimony,
10 TracFone meets the requirements of Section 214(e)(2). Moreover, the State of South
11 Carolina has enforcement mechanisms available to it to ensure compliance with its laws
12 and regulations by all companies which are subject to those laws and regulations,
13 irrespective of whether some of those companies may also be designated as ETCs.
14 TracFone complies with all state laws and regulations that are applicable to it and will
15 respond to any appropriate inquiries about its compliance.

16 **Q: IS THERE ANYTHING ELSE YOU WOULD LIKE TO ADD TO YOUR**
17 **TESTIMONY?**

18 A: Based on my testimony above, I would like to reiterate that TracFone meets all applicable
19 legal requirements for designation as an ETC in the State of South Carolina.
20 Accordingly, the South Carolina Public Service Commission should unconditionally and
21 promptly grant TracFone's petition for designation as an eligible telecommunications
22 carrier so that TracFone may commence providing its SafeLink Wireless service to low
23 income South Carolina households at the earliest possible time. That service has been

1 well-received in those states where it is already available and is providing thousands of
2 low income households in those states with the benefits of wireless telecommunications
3 service. TracFone is anxious to provide its SafeLink Wireless service, including free
4 E911-compliant wireless handsets and quantities of free wireless airtime each month, to
5 low income South Carolina households.

6 July 30, 2009